REMARKS

A. INTRODUCTION

The Office Action has been received and carefully considered. No amendment has been made. Applicants believe that the application is in condition for allowance and notice thereof is respectfully requested.

B. REOPENING OF PROSECUTION

Applicants are grateful that the Examiner reopens prosecution of the present application in view of Applicants' February 16, 2005 Appeal Brief.

C. THE REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects claims 1-51 under 35 U.S.C. § 103(a) as being unpatentable over Atkins (U.S. Patent 5,644,727, hereinafter "Atkins") in view of Schein et al. (U.S. Patent 6,226,623, hereinafter "Schein") This rejection is respectfully traversed as follows.

Under 35 U.S.C. § 103, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. In re Fine, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). As stated in M.P.E.P. § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 984, 180 U.S.P.Q. 580 (CCPA 1974).

Applicants respectfully submit that, because the Atkins and Schein references, individually or in combination, do not teach or suggest all the elements in the claimed invention, the Examiner has not met the burden of proof in establishing the obviousness of claims 1-51.

Although the Examiner has shifted the ground for rejection from the pre-appeal § 102(b) to the current § 103(a), the deficiency in the claim rejection remains the same -- the cited references still does not disclose all the claim elements in the present application.

Regarding Atkins, Applicants maintain the arguments made in the Appeal Brief that Atkins does not disclose each and every element of the pending claims. For example, regarding claim 1, Atkins does not teach or suggest "a linked account instrument," "a second interface to at least one credit account used to back said at least one cash account in the event of insufficient funds in said at least one cash account," or "performing sweeps of said at least one cash account at predetermined times to determine whether said at least one cash account contains sufficient funds to cover the charges incurred through use of the linked account instrument." *See*, Part VII, Section B of the Appeal Brief. Regarding similar arguments with respect to claims 2-51, the Examiner is referred to Part VII, Sections C-F of the Appeal Brief.

Applicants will address the Examiner's additional arguments concerning Atkins, as well as the deficiency of the newly cited reference, Schein.

Compared to the Final Office Action (Paper No. 20040714) dated July 21, 2004, the current Office Action appears to make some additional arguments regarding Atkins. These arguments can be summarized as the following points. (i) The linked accounts are obviously inferred since the features disclosed by Atkins, such as expert sweeps, could not operate without linkage. (ii) Atkins' expert sweeps function is the same as the sweep feature claimed in the present application. (iii) Atkins' basic system and method teaches at its core the principle of automated credit backup of cash transaction accounts. Office Action, page 3. Based on these arguments, the Examiner attempts to establish that, except for the linked account instrument, Atkins discloses all the elements in Applicants' claimed invention. The Examiner concedes that Atkins does not disclose the use of linked account instrument, but alleges that the linked account instrument would have been obvious to an ordinary practitioner in view of Schein. Office Action, page 12.

Applicants respectfully submit that the Examiner's arguments regarding Atkins are flawed and the Examiner's reliance on Schein is misplaced.

First, the financial accounts in Atkins are not "linked" in the same way as claimed in the present application. Atkins does disclose the management of multiple accounts, such as asset accounts and credit accounts. However, the inquiry does not end here. The issue remains as to whether Atkins discloses linking multiple accounts in the same way or via the same instrument as claimed in the present invention. As a matter of fact, Atkins' accounts are not linked in the same way as presently claimed. Claim 1 recites that at least one credit account is "used to back said at least one cash account in the event of insufficient funds in said at least one cash account." Atkins does not disclose such a relationship between a credit account and a cash account. The credit facilities (col. 7, ll. 20-26) in Atkins are merely one example of liability accounts to be balanced with asset accounts in Atkins' personal financial management system. Atkins, col. 8, ll. 25-35. There is no teaching or suggestion in Atkins that credit accounts could be used to back up cash accounts in an overdraft scenario. As explained in Part VII, Section B, Subsection 2 of the Appeal Brief, Atkins actually teaches away from this claimed feature. In addition, Atkins' accounts are not linked via "a linked account instrument" as presently claimed.

Second, the Examiner may have confused a "line of credit" with a "credit account." When discussing the claim limitation of backing a cash account with a credit account, the Examiner appears to use the terms "line of credit" (or "credit") and "credit account" (or "credit facility") interchangeably. For example, in page 3 of the Office Action, regarding claims 1 and 24, the Examiner speaks of "the principle of automated credit backup of cash transaction accounts" (emphasis added). In page 5, the Examiner refers to "the linkage to a line of credit to back up a transaction account" (emphasis added). In page 6, the Examiner speaks of "the

cumulative dollar limit established for overdrafts in the demand account the credit facility backs up" (emphasis added). In page 7, regarding claims 13 and 36, the Examiner mentions "the employment of the credit back-up facility" (emphasis added). In page 9, regarding claims 23 and 47, the Examiner refers to "a pre-established back-up credit facility" (emphasis added).

It is worth pointing out that a line of credit is different from a credit account. A line of credit is "an arrangement between a financial institution (usually a bank) and a customer establishing a maximum loan balance that the bank will permit the borrower to maintain."[1] When a line of credit is associated with a customer's banking account (e.g., a checking or savings account), the customer may be able to spend or otherwise withdraw more money than the cash balance of the banking account. As such, the banking account would take on some characteristics of a credit account. However, it is important to note that a line of credit is not itself a credit account or the equivalent of a credit account. "Linking" a line of credit to a banking account does not involve an additional account for the customer, but simply imposes an overdraft limit on the existing banking account. On the other hand, linking a credit account to a cash account, as recited in the pending claims, involves at least two separate accounts. In addition, sweeps may be performed to determine whether the cash account contains sufficient funds to cover the balance of the linked credit account. When a line of credit is "linked" to a banking account, the sweep function would not be necessary because the linkage between the line of credit and the banking account does not provide another account that can be swept for funds. The line of credit only kicks in when the banking account balance reaches zero. Thus, if the account holder is already borrowing against the line of credit, there is no need to sweep the

[1] Dictionary definition from http://www.investopedia.com/terms/l/lineofcredit.asp.

banking account. Furthermore, it is typically the same financial institution that both hosts the banking account and provides the line of credit. While here, in the present invention, the use of a credit account to back up a banking account does not require that both accounts be hosted by a same financial institution.

With the difference between a line of credit and a credit account in mind, Applicants respectfully submit that Atkins does not teach "the principle of automated credit backup of cash transaction accounts" as the Examiner has alleged. Atkins does refer to "home equity line of credit," "personal line of credit," "individual's line of credit," "credit accounts" and "credit facilities." However, Atkins does not describe the use of any of these items to back up or provide overdraft protection for a cash account or banking account. Atkins uses the word "back" as a verb only once, in the context of "mortgage-backed securities." Atkins: col. 11, line 24. Atkins uses the word "overdraft" only once, in the context of describing irregularities such as repeated overdrafts concerning the individual's account. Atkins: col. 46, line 40. The fact that Atkins generally discloses the management of multiple financial accounts does not meant Atkins has disclosed or even contemplated all the specific relationships or transactions among the different accounts.

Third, Atkins does not disclose a same sweep function as presently claimed. As explained in Part VII, Section B, Subsection 3 of the Appeal Brief, Atkins does not teach or suggest "performing sweeps of said at least one cash account at predetermined times to determine whether said at least one cash account contains sufficient funds to cover the charges incurred through use of the linked account instrument" as recited in claim 1. The Examiner is respectfully reminded that "all words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496

(CCPA 1970). It is improper to focus on a single word in the claim (in this case, the word "sweep") while ignoring the rest of the limitations. In the Appeal Brief, Applicants explained in detail the sweep function as claimed. Applicants further enumerated all the instances where the word "sweep" (or its variations) was used in the Atkins reference, and explained why Atkins does not disclose or suggest this claimed feature. At least with respect to the "sweep" feature, Applicants' previous argument has not become moot because the Examiner is still relying on Atkins' "expert sweeps" function as part of the ground for rejection. If Applicants' argument regarding the sweep feature is considered incorrect, the Examiner is invited to address it squarely and point out the weakness therein.

The most significant aspect of this Office Action is the concession that Atkins does not disclose a linked account instrument. However, the Examiner asserts that Schein discloses the same. Specifically, the Examiner relies on the following passages from Schein:

> "There have, of course, been attempts to provide linked account structures in the past. The Citicard account, introduced in 1976 and 1977, was the first account that allowed four or five accounts to be mechanically linked together. A simple transactional account, short term savings, day-to-day savings, and 90-day savings, checking and checking plus line of credit were all linked in the Citicard account. Over the next ten years, other banks copied this approach and began offering "linked accounts," which are essentially transactional banking accounts with some saving components and perhaps a line of credit--a very traditional banking product." Schein: col. 4, ll. 45-56.

The Examiner also points to the continued development of the "linked accounts" in the following years. Schein: col. 5, ll. 6-57.

Applicants respectfully submit that the Examiner's reliance on Schein is misplaced. Reading through the cited passages, Applicants fail to see where exactly Schein teaches or suggests "a linked account instrument" as claimed. Schein does not even disclose linking a cash account and a credit account in the same manner as presently claimed.

It is true that Schein speaks of "linked accounts." According to Schein, the first linked accounts offered by Citibank were "mechanically linked together" (col. 4, line 48) and mainly for the purpose of cross selling new accounts to customers (col. 4, ll. 35-44). The linked accounts offered by other banks are "essentially transactional banking accounts with some saving components and perhaps a line of credit -- a very traditional banking product." Schein: col. 4, ll. 51-56. The CITIGOLD account includes a full range of brokerage services and full banking services. Schein: col. 5, ll. 6-10. Then, there is the CITIONE account, which "permitted linking of transaction accounts, certain traditional banking accounts and bank saving accounts so the customer could access all these accounts." Schein: col. 5, ll. 26-30. Schein also describes the Citibank Money Management Account (CMMA), which "allows customers to link separate accounts and to perform a wide variety of financial transactions including traditional banking activities, brokerage activities and loan activities." Schein: col. 5, ll. 41-46.

However, neither are these "linked accounts" linked in the same way as claimed in the present application, nor is there a linked account instrument involved. The above-cited passages only disclose that multiple accounts are "linked," but does not reveal any specifics, such as how these account as linked and what the relationships among the accounts are.

For the foregoing reasons, the Examiner has not established *prima facie* obviousness of Applicants' claimed invention. Withdrawal of the obviousness rejection of claims 1-51 is respectfully requested.

D. CONCLUSION

For at least the reasons provided above, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and allowance of the pending claims are respectfully solicited.

Should there be anything further required to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

In the event any additional fees are due, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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